



CALIFORNIA CODE OF REGULATIONS
TITLE 14, DIVISION 1
SUBDIVISION 4, OFFICE OF SPILL PREVENTION AND RESPONSE
CHAPTER 3. OIL SPILL PREVENTION AND RESPONSE PLANNING
SUBCHAPTER 3. OIL SPILL CONTINGENCY PLANS
SECTIONS 819 - 819.06

OSRO RATING
Approved October 9, 2002

819. OIL SPILL RESPONSE ORGANIZATION (OSRO) RATING

819.01 Purpose and Scope

- (a) The Oil Spill Response Organization Rating process was developed to facilitate the preparation and review of oil spill contingency plans. An owner or operator who is required to submit a contingency plan must, among other things, identify and ensure by contract or other approved means the availability of personnel and equipment necessary to respond to all contingency plan requirements. Plan holders that have a contract or other approved means for the booming, on-water recovery and storage, and shoreline protection services of a Rated OSRO do not have to list that OSRO's response resources in their plan. A Rated OSRO has received an OSRO Rating Letter (ORL) from OSPR for the booming, on-water recovery and storage and shoreline protection services as listed in their application.
- (b) Any Rating levels assigned pursuant to this section are for planning purposes and may not reflect the exigencies of actual spill response.
- (c) Only OSRO's that receive a Rating from OSPR are eligible to enter into agreements for response services pursuant to Government Code 8670.56.6.(j)(1), for the response resources as listed in their ORL.

Note: Authority cited: Sections 8670.28, 8670.30 and 8670.56.6.(j)(1), Government Code.
Reference: Sections 8670.28, 8670.30 and 8670.56.6.(j)(1), Government Code.

819.02 OSRO APPLICATION CONTENT

(a) General Information

An individual or entity may apply for consideration as a Rated OSRO for oil spill response operations. OSPR will only grant Ratings by Geographic Regions (or Geographic Response Plan areas, if established) for the following services: booming; on-water recovery and storage; and shoreline protection. Ratings of six hours or earlier require dedicated response resources (as defined in Section 815.05(c) of this subchapter) or OSRO-owned and controlled (as defined in Section 815.05(k) of this subchapter). An OSRO's existing Letter of Approval issued from the Administrator shall remain valid unless revoked, and shall be deemed to meet the requirements of this section for three years from the date of the letter's issuance or until January 1, 2003, whichever date occurs later. OSRO's without a current Letter of Approval must submit a completed application within 60 calendar days prior to citing the OSRO's response resources and services to comply with the contingency planning requirements for tank vessels, nontank vessels and marine facilities. The following information is required before an application will be reviewed:

- (1) the OSRO's name, contact person, mailing and physical addresses, facsimile and telephone numbers;
- (2) all subcontractor's name(s) (if applicable), contact person, mailing and physical addresses, facsimile and telephone numbers;
- (3) list of plan holders contracted with;
- (4) for the previous two years from the date of the application, documentation of California oil spills responded to or California equipment deployment exercises participated in, including personnel and equipment used for the response/exercise;
- (5) an organizational diagram depicting the OSRO's response organization and management/command structure;
- (6) a description of the roles, responsibilities and method to interface the OSRO's organization with the State Incident Command System and/or the Unified Command Structure as required by Title 8, CCR, Subsection 5192(q)(3)(A). (The OSRO may utilize the appropriate Area Contingency Plan as a reference for information on the Incident Command System/Unified Command Structure).
- (7) for each type of service, the types of oil to which the OSRO is willing and able to respond;
- (8) a description of the OSRO's communications equipment, to include:
 - (A) the amount of equipment;

- (B) the frequencies to be used; and
- (C) the number of certified operators.

(b) Equipment and Personnel

The application shall include for each location (i.e., where the equipment is stored, moored and operating area), the following information as applicable for the response equipment and personnel available to respond, indicating whether company owned/employee or subcontracted (including subcontractor's name), and dedicated or non-dedicated or OSRO-owned and controlled (as defined in Section 815.05 of this subchapter), that forms the basis for the requested Rating, Note: Ratings for six hours or earlier require sufficient dedicated response resources (as defined in Section 815.05(c)) or OSRO-owned and controlled resources (as defined in Section 815.05(k)), except for shoreline protection services in which the six hour dedicated resources requirement will be phased in as specified in Section 819.02(d)(4) of this subchapter. The required information shall include but not be limited to:

- (1) A description of the boom to include:
 - (A) total lengths of boom by type;
 - (B) manufacturer name and model;
 - (C) freeboard and draft
 - (D) connector type; and
 - (E) intended operating environments;
- (2) A description of the skimmers (including Oil Spill Response Vessels (OSRV)) to include:
 - (A) total number of skimmers by type;
 - (B) manufacturer name and model;
 - (C) intended operating environments, including current;
 - (D) skimmer type by design (i.e., stationary, advancing, self-propelled, stationary/advancing);
 - (E) manufacturer's nameplate capacity;

- (F) Effective Daily Recovery Capacity (EDRC);
 - (G) on board storage capacity integral to the skimmer;
 - (H) storage capacity of the skimming system external to the skimmer (e.g., dracones, tank barges, etc.), if any, and pump rate for off loading on-board storage; and
 - (I) maximum draft;
- (3) A description of the response vessels (not including OSRV's) to include:
- (A) vessel name;
 - (B) vessel length, width, and draft;
 - (C) vessel type by design;
 - (D) current documentation/registration;
 - (E) intended operating environments;
 - (F) ability to tow;
 - (G) horsepower;
 - (H) amount of boom on board;
 - (I) pump rate for off loading on-board storage; and
 - (J) applicable design limits, including suitability for different types of oils, operating environments as related to adverse weather, and draft;
- (4) A description of the recovered oil storage to include:
- (A) type/name;
 - (B) official number;
 - (C) length/beam/draft;
 - (D) maximum capacity;
 - (E) a copy of the vessel's Certificate of Inspection or other documentation as

applicable;

- (5) For all equipment, all inspections and maintenance must be documented and the records maintained for 3 years. The location of the records must be noted in the application, and all records must be available for review during verification inspections conducted by OSPR.
- (6) for any equipment not located in the Geographic Region for which a Rating is sought, the applicant shall provide attestation that the equipment is transportable and available for use within the Rating time period;
- (7) Equipment shall be listed only if it is in a fully operable condition. Future equipment, ordered but not yet delivered and fully operable, may be listed, but it must be listed and identified separately with its date of availability indicated.
- (8) Personnel
For all personnel identified as a spill response resource, the application shall include for each Geographic Region that the OSRO is requesting a Rating:
 - (A) the number of personnel that are to be utilized for response activities at the six hour response level or earlier, their assignments during spill response, and whether they are dedicated or OSRO-owned and controlled or non-dedicated personnel. A list matching trained personnel by name to the equipment type and the services offered shall be made available for review during verification inspections by OSPR;
 - (B) the plan for mobilization of personnel including cascading additional personnel, and estimated time of mobilization;
 - (C) a list of the training and qualifications required for each spill response assignment including:
 - 1. all appropriate State and federal safety and training requirements, including the OSHA requirements for Hazardous Operations and Emergency Response, and the requirements under Title 8, California Code of Regulations, Section 5192;
 - 2. the number of trained supervisors and laborers, and the types of training received;
 - 3. the procedures for training personnel;
 - 4. the timelines for mobilizing and training additional response

personnel not under contract; and

5. a statement by the OSRO certifying that all personnel within a job category have the requisite training and qualifications for their assignment during spill response.
6. Documentation of training and qualifications shall be maintained by the OSRO and shall be made available to the Administrator upon request.

(c) Subcontracted Response Resources

If response resources that form the basis for the assigned Rating is under contract from another party, and if the information required in this subsection is not listed elsewhere, provide the following information:

- (1) on-site deployment timeframes by Geographic Region and operating environments;
- (2) A valid contract from each company that is providing the contracted resources shall be submitted to OSPR for review. If all subcontracts are the same, submitting one contract along with the signature pages for any additional contracts shall suffice. The contract shall include, but not be limited to, the following:
 - (A) the name of the company providing the resources (subcontractor);
 - (B) a complete listing and storage location of the specific resources being provided;
 - (C) the timeframe for which the agreement is valid;
 - (D) any limits on the availability of resources;
 - (E) a signed letter from the subcontractor by an authorized individual; to the OSRO stating the following:

“The information provided regarding [subcontractor] response equipment and personnel is factual and correct to the best of my knowledge and belief. I agree to allow OSPR personnel access to my facility and records for the purpose of verifying the information contained in the Rating application in which my assets are listed. I agree to participate in announced and unannounced drills as set

forth in Section 819.03 of this subchapter to verify any or all of the information regarding my response equipment and personnel contained in a Rating application”.

- (3) Any drill or inspection of subcontracted response resources shall be coordinated with the OSRO whose application contains the subcontracted response resources.
 - (4) If the subcontracted response resources are not dedicated response resources, the OSRO must ensure the availability of non-dedicated response resources by contract in quantities equal to twice what the OSRO requires of the dedicated response resources. These non-dedicated response resources are subject to verification inspections and will be required by the Administrator to participate in an announced and unannounced drill(s).
- (d) Service-specific Information
- (1) List the Geographic Response Plan (GRP) area(s), (or the Geographic Regions(s) as defined in Chapter 1, Section 790 (ACP Areas), if GRP's are not established) in which spill response services are being offered. Include for each GRP or region:
 - (A) the services being offered and/or under contract (i.e., booming, on-water recovery and storage, and shoreline protection services);
 - (B) estimated timeframes to deploy equipment/resources at scene,
 - (C) operating environment(s) as described in 33 CFR 154, as applicable, including the OSRO's minimum operating depth, and
 - (D) requested Rating level, as described in Section 819.04 of this subchapter.
 - (2) for each Rating level as described in Section 819.04, and for each service offered, a written plan of operations including a call-out list for each GRP, or Geographic Region (ACP area if GRP's are not established), and operating environment of response coverage. The written plan of operations can be limited to the following time frames: six hours for High Volume Ports; 12 hours for Facility/Transfer Areas; and 18 hours for Balance of the Coast. However, a written general plan to acquire response resources beyond these time frames is still required. As applicable, the plan will describe the number(s), type(s), means of deployment, and operations of all oil spill response equipment and trained personnel, including subcontracted resources, that the applicant would use for a spill of 50 barrels, a spill of 3,125 barrels and the largest reasonable worst case spill for which the applicant would be contractually responsible.

- (3) The applicant shall submit a description of the systems approach (as defined in Section 815.05 of this subchapter) for the services offered (i.e., booming, on-water recovery and storage, and shoreline protection services) in a narrative format, for the equipment listed in Subsection (b) including, but not limited to:
 - (A) for all boom:
 1. describe how boom is transported and method of deployment.
 - (B) for all skimmers (including vessel of opportunity skimming systems (VOSS)):
 1. describe how the skimmer is deployed and operated;
 2. describe how skimmer is transported.
 - (C) for all vessels (OSRO owned vessels, and subcontracted vessels):
 1. describe how vessel is transported; and
 2. describe type of spill response service the vessel is primarily to be used for (e.g., OSRV, skimming, towing boom, boom deployment).
 - (D) for all recovered oil storage:
 1. describe how recovered oil is transported to/from storage.
- (4) for all shoreline protection services of environmentally sensitive sites:
 - (A) OSRO's will receive a Rating for each GRP (or Geographic Region as defined in Chapter 1, Section 790 (ACP Area)). Ratings will reflect the OSRO's capability to deliver and deploy equipment to the area(s) designated by the OSRO.
 - (B) The Rating(s) requested by the OSRO shall be justified by providing documentation specifying: location of both ACP and plan holder-identified environmentally sensitive sites to be protected, as determined by the OSRO; equipment and personnel; estimated time of arrival at the site to be protected; and deployment times. Announced and unannounced drills will be used to validate the Rating(s).
 - (C) Ratings up to and including six hours require sufficient dedicated response resources or OSRO-owned and controlled resources which shall be phased in as follows (OSRO-owned and controlled resources refers to equipment owned by the OSRO, and personnel who are employed directly by the OSRO):

1. 50% of the shoreline protection resources shall be required to be dedicated response resources or OSRO-owned and controlled resources by January 1, 2003;
2. 75% of the shoreline protection resources shall be required to be dedicated response resources or OSRO-owned and controlled resources by January 1, 2005.

(e) Attestation

The application shall contain the following language, signed and dated from the OSRO, by an authorized individual:

“The information provided regarding response equipment and personnel is factual and correct to the best of my knowledge and belief. I agree to allow OSPR personnel access to my facility, prior and subsequent to receiving a Rating, for the purpose of verifying the information contained in this application. I understand that all response resources identified for Rating purposes are subject to verification visits. I agree to participate in announced and unannounced drills as set forth in Section 819.03 of this subchapter to verify any or all of the information contained in this application, prior and/or subsequent to receiving a Rating”.

(f) Confidentiality

(1) An applicant may request that proprietary information be kept confidential. Such a request must include justification for designating the information as confidential. The Administrator will make a determination regarding that information which may be considered confidential and removed from any copy of the application that is made available for public review.

(A) An applicant may also request that any reports, or studies prepared or submitted under any OSRO certification requirements be designated as proprietary information. Such a request must include justification for designating the report or study as confidential.

(2) Any information designated as confidential must be clearly identified as proprietary.

(3) If an applicant designates information as confidential, two different copies of the application must be submitted as follows:

(A) one copy must contain the confidential information. This application will be utilized in the review and Rating process;

(B) one copy must be submitted with the confidential information removed. This copy will be available for public review. This application must contain sufficient information in place of the confidential information so that any individual reviewing

the application will understand all the elements of the application.

Note: Authority cited: Sections 8670.28 and 8670.30, Government Code. Reference: Sections 8670.10, 8670.19, 8670.28 and 8670.30, Government Code.

819.03 APPLICATION REVIEW, VERIFICATION AND DRILLS

(a) Review For Rating

- (1) An application will be reviewed within 90 calendar days of receipt or resubmission.
- (2) The Administrator shall rate an OSRO upon determination that the applicant has met the requirements for the appropriate Rating levels, as outlined in Subsection 819.04(b)(2), for the equipment, services and operating environments listed in the application. The Administrator shall not issue a Rating until the applicant OSRO successfully completes an unannounced drill to verify the information in the OSRO's application.
- (3) A Rating may be denied or modified if the Administrator determines that the OSRO applicant fails to meet the criteria for the Rating level of any services, based upon inspection, verification or performance of an announced and unannounced drill or actual spill, or for other reasons as determined by the Administrator. The Administrator may require the satisfactory completion of an unannounced drill of each rated OSRO prior to being granted a modified rating, or for renewal, or prior to reinstatement of a revoked or suspended rating.

(b) Standards For Review

OSRO Rating Letters will be issued to OSROs subject to the following conditions:

- (1) Equipment, equipment maintenance records, and personnel training records, and personnel-specific equipment qualifications must be verifiable by inspection by the Administrator. Any resources not on site at the time of an inspection will not be counted until verified by subsequent inspection.
- (2) Response personnel must comply with all appropriate State and federal safety and training requirements. Safety requirements include, but are not limited to, the following (found in Title 8, California Code of Regulations):
 - Trenching and Shoring (Section 1504, 1539-1547)
 - Electrical Safety (Section 2299-2974)
 - Injury and Illness Prevention Program (Section 3203)
 - Employee Exposure Records (Section 3204)
 - Transporting Employees (Section 3702)
 - Crane Safety (Section 4885-5049)
 - Noise/Hearing Conservation (Section 5095-5100)
 - Ergonomics (Section 5110)

Respiratory Protection (Section 5141 and 5144)
Airborne Contaminants/Employee Exposure Monitoring (Section 5155)
Confined Space (Section 5157-5159)
Hazardous Waste Operation and Emergency Response (Section 5192)
Hazard Communication (Section 5194)
Benzene Standard (Section 5218)

(3) Safety and training records may be inspected for verification.

(c) Inspections and Verification of Response Resources

(1) OSROs seeking a Rating are subject to unannounced inspections anytime prior and subsequent to receiving a Rating to verify the response services cited in the application.

(A) Any contract or sub-contract for response resources listed in the application must acknowledge OSPR personnel's right to inspect and verify listed contracted response resources as provided in this section or those response resources will not be counted. Inspection of sub-contracted response resources shall be coordinated with the OSRO whose application contains the subcontracted response resources.

(2) The Administrator or any duly authorized representative of OSPR may do any of the following:

(A) enter the OSRO's or sub-contractor's facility or other areas where response service equipment is stored or serviced to inspect the response services cited in the application;

(B) document, photograph or videotape any response service equipment;

(C) request start up, operation, or demonstration of any response service equipment or response system cited in the application;

(D) inspect and copy any documents, reports, equipment maintenance records, employee training records, or other information required to verify the response services cited in the application.

(3) Deficiencies noted during the inspection may result in denial of the application, or revocation or modification of the OSRO's Rating as described in Section 819.06 of this subchapter. The OSRO may provide a written plan, to be approved by the Administrator, for correcting the deficiencies which states the actions to be taken and the expected dates of completion.

(4) The Administrator may accept an inspection completed by a governmental agency if all requirements of this Sections 819 through 819.07 are met.

(5) OSRO Announced Drills and Inspections; and Unannounced Drills

Announced and unannounced drills shall be conducted to verify any or all of the elements of the services provided by an OSRO in its application prior and subsequent to issuing a Rating. A drill for the protection of environmentally sensitive areas shall conform as close as possible to the response that would occur during a spill but sensitive sites shall not be damaged during the drill. The Administrator may determine if actual spill response may be substituted in lieu of a drill, as described in CCR Section 820.01(k) of this subchapter.

(A) Announced Drills and Inspections

All OSRO's shall submit annual drill schedules to OSPR and conduct equipment deployment and sensitive site protection exercises for equipment listed in the application, including subcontracted equipment, for any services they are Rated for. The exact dates of the exercises shall be submitted 30 calendar days prior to the exercise being conducted.

1. At least 50% of all response equipment other than boom shall be exercised each year, and all response equipment, other than boom, shall be exercised over a two-year period. The OSRO will ensure that this equipment is identified/labeled and the same equipment is not used repeatedly for each exercise.
2. At least 33% of the boom listed in the application shall be inspected annually, and 1/3 of that 33% shall be deployed annually, and shall be representative of the total inventory contained in the application. The OSRO shall identify/label the boom and document the deployment or inspection.
3. For the equipment deployment exercises, the OSRO shall operate boats, boom and skimmers in each type of operating environment contained in the application.
4. Documentation that these exercises/inspections have been performed shall be submitted to OSPR within 30 calendar days after completion of the exercise/inspection. The equipment deployment exercises pursuant this subsection will also satisfy the equipment deployment exercise requirement of Section 818.02(l)(1)(D) for any vessel or Section 817.02(k)(3) for any marine facility that utilizes the OSRO's resources to fulfill the response element of the vessel or marine facility's own plan. These exercises will not fulfill the semi-annual equipment deployment exercise requirement of marine facility-owned equipment pursuant to Section 817.02(k)(1)(B).
5. OSROs shall ensure they coordinate equipment deployment exercises with all of their subcontractors. Full systems must be deployed and operating for all booming, on-water recovery and storage, and shoreline protection services.

(B) Unannounced Drills

OSROs are subject to unannounced drill(s) by OSPR to verify the ability of the OSRO to respond and deploy equipment and personnel as stated in the OSRO's application, prior and subsequent to receiving a rating. Unannounced drills will only be held to verify Ratings of 24 hours or earlier.

1. An OSRO shall be subject to one unannounced drill per year in each ACP area in which a Rating has been issued by OSPR. However, for ACP Area 2 only (as described in Chapter 1, Section 790(g)(2)(B)), if an OSRO applies for and receives a Rating for six hours or earlier they shall be subject to one unannounced drill each year in each of the Geographic Response Plan (GRP) areas identified in the ACP.
 - i. The Administrator may call a drill to test every service that the OSRO intends to provide, pursuant to the OSRO's application. Plan holders are still subject to unannounced drills for all required services, including those which OSPR does not Rate the OSRO.
 - ii. Each OSRO applying to provide shoreline protection services shall be subject to one unannounced drill that tests their ability to provide sensitive shoreline site protection services in each Geographic Region (or Geographic Response Plan area, if established) in which they apply to provide services.
2. Significant reductions in resources, as described in Section 819.05 of this subchapter, may warrant additional unannounced drills.
3. Failure to participate in an unannounced drill may result in denial or revocation of the OSRO's Rating as described in Section 819.06 of this subchapter.
4. The Administrator may modify, suspend or revoke an OSRO's Rating if the OSRO fails to satisfactorily complete a drill.
5. The Administrator may cancel an announced or unannounced drill at any time due to hazardous or other operational circumstances, which shall include but not be limited to:
 - i. any unsafe activity or condition;
 - ii. oil or cargo transfer operations;
 - iii. inclement weather or sea state;
 - iv. on-going spill response activities;

- v. emergency situation as determined by the U.S. Coast Guard Captain of the Port;
 - vi. other situations or conditions as determined by the Administrator
6. All non-governmental costs associated with an unannounced drill are the obligation of the OSRO.
 7. OSROs may identify client plan holder(s) who wish to receive credit for a drill as described in CCR Section 820.01 of this subchapter.
 8. The Administrator shall issue a written report evaluating the performance of the OSRO after every unannounced drill called by the Administrator within 30 calendar days.
 9. The Administrator shall determine whether an unannounced drill called upon the OSRO by a federal agency qualifies as an unannounced drill for the purpose of this section, as described in CCR Section 820.01(j).

Note: Authority cited: Sections 8670.28 and 8670.30, Government Code. Reference: Sections 8670.19, 8670.28 and 8670.30, Government Code.

819.04 OSRO RATING, UPDATE, AND RENEWAL PROCEDURE

(a) Filing

Applications must be filed with the Administrator of the Office of Spill Prevention and Response in the Department of Fish and Game. Applications shall either be delivered in person or sent by registered mail with return receipt requested, or other means as approved by the Administrator to the Marine Safety Branch of OSPR.

(b) OSRO Rating

- (1) Upon satisfactorily meeting the requirements of this subchapter, an OSRO will receive the OSRO Rating Letter (ORL) that will state the type of response services, GRP or ACP area, Rating time frame(s), the on-water daily recovery rate or feet of shoreline protection boom as applicable, and any applicable conditions or restrictions. An OSRO Rating may not be assigned, transferred, or assumed. An OSRO's existing Letter of Approval issued from the Administrator shall remain valid unless revoked, and shall be deemed to meet the requirements of this section for three years from the date of the letter's issuance or until January 1, 2003, whichever date occurs later. OSRO's without a current Letter of Approval must submit a completed application within 60 calendar days prior to citing the OSRO's response equipment and services to comply with the contingency planning requirements for tank vessels, nontank vessels and marine facilities.

(2) Ratings will reflect for the type of response service(s) offered based on the projected arrival time of the response equipment and personnel within the designated operating areas. Note: Ratings for six hours or earlier require sufficient dedicated response resources (as defined in Section 815.05(c)) or OSRO-owned and controlled resources (as defined in Section 815.05(k)), except for shoreline protection services in which the six hour dedicated resources requirement will be phased in as specified in Section 819.02(d)(4) of this subchapter. Ratings for containment booming services only will be limited to 12 hours or earlier. For containment booming, on-water recovery and storage “on-scene” means that the equipment is at the scene of the spill, and deployed and operating within one hour of arrival at the scene of the spill, but no later than the designated time frame for each Rating(s). For shoreline protection “on-scene” means at the site to be protected, and deployed within one hour of arrival at the site, but no later than the designated time frame for each Rating(s). The Rating time frames are as follows:

Ratings Equipment On-Scene

- 0 On-scene within 30 minutes
- 1 On-scene within 1 hour
- 2 On-scene within 2 hours (Temporary storage on-scene within 4 hours)
- 3 On-scene within 3 hours
- 4 On-scene within 4 hours
- 6 On-scene within 6 hours
- 12 On-scene within 12 hours
- 18 On-scene within 18 hours
- 24 On-scene within 24 hours
- 36 On-scene within 36 hours
- 60 On-scene within 60 hours

(c) Updates

(1) To maintain the OSRO’s assigned Rating level, the following information shall be updated and submitted to OSPR:

- (A) the current list of the OSRO's client plan holders, submitted whenever there is a change in the list, and;
- (B) the current list of all owned and subcontracted oil spill response equipment and trained personnel listed in the application, that forms the basis for the assigned Rating, submitted within one year, and annually thereafter, of the anniversary date of the original Rating.

(d) Renewal

- (1) Ratings will be assigned for a period of three years unless suspended or revoked by the Administrator or assigned a modified Rating level. An OSRO must file an application for renewal prior to the expiration of the Rating.
- (2) Ratings may be renewed earlier at the request of the OSRO in the event the OSRO has sustained a significant increase or decrease in response resources.
- (3) The Administrator may require an earlier or more frequent Rating renewal than that required in Subparagraph (d)(1) above. The OSRO will be notified in writing if an earlier renewal is required. The notice will include an explanation of the reasons for the earlier Rating renewal. The circumstances that would warrant an earlier renewal include, but are not limited to, the following:
 - (A) a change in regulations;
 - (B) the development of new oil spill response technologies as determined by the Administrator;
 - (C) deficiencies in oil spill response capability identified by the Administrator as part of the Coastal Protection Review;
 - (D) an increased need to protect plant and wildlife habitat;
 - (E) deficiencies in oil spill response capability identified during an oil spill;
 - (F) deficiencies in oil spill response capability identified during an announced or unannounced drill;
 - (G) significant reductions to the OSRO's response capability; and
 - (H) any other situation deemed appropriate by the Administrator.

Note: Authority cited: Sections 8670.28 and 8670.30, Government Code. Reference: Sections 8670.28 and 8670.30, Government Code.

819.05 NOTICE OF REDUCTION IN RESPONSE RESOURCES

(a) The OSRO shall notify the Administrator of significant reductions in equipment, personnel or management 14 calendar days in advance. This notice may be oral, followed by a written notice as soon as possible, or in writing by facsimile or letter. If the reduction is unforeseen, oral notice shall be given immediately after becoming aware of such change. The notice shall include the identification of backup resources sufficient to maintain the OSRO's Rating level, subject to approval by the Administrator.

(1) a significant reduction is one that would affect the OSRO's ability to respond consistent with their assigned Rating level.

(b) It is the responsibility of the OSRO to verify and report to the Administrator any significant reductions in subcontracted equipment and personnel listed in the OSRO's application.

(c) Failure to notify the Administrator of significant reductions in response resources may result in the modification of a Rating level or revocation of the OSRO Rating Letter.

Note: Authority cited: Sections 8670.28 and 8670.30, Government Code. Reference: Sections 8670.28 and 8670.30, Government Code.

819.06 MODIFICATION, SUSPENSION, REVOCATION, OR DENIAL OF ASSIGNED RATING

(a) Criteria:

(1) Criteria for modification or suspension. The Administrator may modify or suspend an OSRO Rating at any time if the OSRO is not in compliance with the conditions of the Rating or the requirements of this subchapter.

(2) Criteria for revocation. The Administrator may revoke an OSRO Rating if the OSRO fails within 60 calendar days of written notification pursuant to Subsection (b) to correct deficiencies that were the cause of a Rating suspension, or if statutory enactments subsequent to the issuance of the Rating conflict with the purposes of the OSRO Rating program; except in the situation where a Rated OSRO has refused to participate in an announced or unannounced drill except as provided in Section 819.03(c)(5)(B)(5), or is unable to successfully complete an announced or unannounced drill due to significant reductions in response resources, in which case the Administrator may revoke the Rating at any time after the announced or unannounced drill is called.

(3) Criteria for Denial. The Administrator may deny an OSRO Rating if the OSRO has failed to provide the information required in the Rating application as set forth in section

819.02 or has failed to satisfy the Application review criteria set forth in Section 819.03. If the Administrator decides to deny an OSRO Rating, the Administrator shall issue a written statement of the basis for the denial.

(b) Procedure For Modification, Suspension, Revocation, or Denial.

- (1) When the Administrator believes there are valid grounds for modifying, suspending, revoking, or denying a Rating the OSRO shall be notified in writing of the proposed modification, suspension, revocation or denial by certified or registered mail. A proposed revocation notice shall be issued after the 60 day period required by subsection (a)(2) above, except in the situation where a Rated OSRO has refused to participate in an announced or unannounced drill, or is unable to successfully complete an announced or unannounced drill due to reductions in response resources, in which case the Administrator may revoke the Rating at any time after the announced or unannounced drill is called.
- (2) The notice shall identify the Rating to be modified, suspended, revoked or denied and the reason(s) for such modification, suspension, revocation or denial, and inform the OSRO of the right to object to the proposed modification, suspension, revocation or denial. The Administrator may amend any notice of modification, suspension, revocation or denial at any time.
- (3) Upon receipt of a notice of proposed modification, suspension, revocation or denial the OSRO may file a written objection to the proposed action. Such objection must be in writing, must be filed within 45 calendar days of the date of the notice of proposal, must state the reasons why the OSRO objects to the proposed modification, suspension, revocation or denial, and may include supporting documentation.
- (4) A decision on the proposed modification, suspension, revocation or denial shall be made within 45 calendar days after the end of the objection period. The Administrator shall notify the OSRO in writing of the decision and the reasons. The Administrator shall also provide the applicant with the information concerning the right to request reconsideration of the decision under Section 819.07 of this subchapter and the procedures for requesting reconsideration. No Rating may be revoked pursuant to this section unless it has first been suspended pursuant to this section, except as provided in Section 819.06(b)(1).
- (5) The Rating shall remain valid and effective pending any final determination pursuant to Section 819.07 of this subchapter, except that a Rating may be revoked immediately if statutory enactments subsequent to the issuance of the Rating conflict with or prohibit the continuation of the Rating, or if the Administrator determines that significant reductions in response resources have affected the OSRO's ability to respond consistent with their assigned Rating level and response planning volume.

Note: Authority cited: Sections 8670.28 and 8670.30, Government Code. Reference: Sections 8670.28 and 8670.30, Government Code.

819.07 RECONSIDERATION AND APPEAL PROCEDURES

- (a) Request for reconsideration. Any person may request reconsideration of an action if that person is one of the following:
 - (1) An applicant for an OSRO Rating or renewal who has received written notice of denial;
 - (2) An OSRO who has a Rating modified, suspended, or revoked.
- (b) Method of requesting reconsideration. Any person requesting reconsideration of an action must comply with the following criteria:
 - (1) Any request for reconsideration must be in writing, signed by the person requesting reconsideration or by the legal representative of that person, and must be submitted to the Administrator.
 - (2) The request for reconsideration must be received by the Administrator within 30 calendar days of the date of notification of the decision.
 - (3) The request for reconsideration shall state the reason(s) for the reconsideration, including presenting any new information or facts pertinent to the issue(s) raised by the request for reconsideration.
- (c) The Administrator shall notify the OSRO of his or her decision within 45 calendar days of the receipt of the request for reconsideration. This notification shall be in writing and shall state the reasons for the decision. The notification shall also provide information concerning the right to appeal and the procedures for making an appeal.
- (d) Appeal. Any person who has received an adverse decision following a submission of a request for reconsideration may submit a notice of appeal to the Administrator. An appeal must be submitted within 30 calendar days of the date of the notification of the decision on the request for reconsideration. The request for appeal shall state the reason(s) and issue(s) upon which the appeal is based and may contain any additional evidence or arguments to support the appeal.
- (e) Appeals Procedure.
 - (1) Upon receipt of a notice of appeal, the Administrator shall set the matter for a hearing.

- (2) Any hearing required under this subchapter shall be conducted by an independent hearing officer according to the procedures specified in Government Code Section 11500 et seq. (The Administrative Procedures Act).
- (3) A hearing requested by the OSRO shall be conducted within 90 calendar days after the request for appeal is received by the Administrator, unless a later date is mutually agreed upon by the parties.
- (4) After conducting any hearing pursuant to this section, the hearing officer within 30 calendar days after the hearing is held, shall issue a written decision.
- (5) Within 60 calendar days after service of a copy of a decision issued by the hearing officer, any person so served may file with a court a petition for writ of mandate for review of the decision. Any person who fails to file the petition within the 30-day period may not challenge the reasonableness or validity of a decision or order of the hearing officer in any judicial proceedings brought to enforce the decision or order or for other remedies. Except as otherwise provided, Section 1094.5 of the Code of Civil Procedure shall govern any proceedings conducted pursuant to this Section 819.07. In all proceedings pursuant to this Section 819.07, the court shall uphold the decision of the hearing officer if the decision is based on substantial evidence in the whole record. The filing of a petition for writ of mandate shall not stay any corrective action required pursuant to this act. This subdivision does not prohibit the court from granting any appropriate relief within its jurisdiction. The decision of the hearing officer shall constitute the final administrative decision.

Note: Authority cited: Sections 8670.28 and 8670.30, Government Code. Reference: Sections 8670.28 and 8670.30, Government Code.